REMARKS

The foregoing amendment does not attempt to add new matter into the present application for invention. Therefore, it is respectfully requested that the foregoing amendment be entered and that the claims to the present invention, kindly, be reconsidered.

The Office Action dated August 12, 2005 has been received and considered by the Applicants. Claim 1-33 are pending in the present application for invention. Claims 1-9, 18 and 20-24 are rejected. Claims 10-17, 19, 21, 25-33 are withdrawn from consideration.

Claims 1-9, 18 and 20-24 are rejected under the provision of 35 U.S.C §101 because the claimed invention is not within the technological arts. The Examiner has attempted to assert a term that has recently been used by the Examiner Corp referred to as "technological arts" as a test to determine patentability.

The Board of Patent Appeals and Interferences in the Precedential Option Ex parte CARL A. LUNDGREN, Appeal No. 2003-2088, Application 08/093,516, HEARD: April 20, 2004 unequivocally stated that there is no viable test for "technological arts".

The Board of Patent Appeals and Interferences stated within the opinion of Ex parte CARL A. LUNDGREN at the bottom of page 6 to the top of page 7:

"The examiner finds the separate 'technological arts' test in In re Musgrave, 431 F.2d 882, 167 USPQ 280 (CCPA 1970); In re Toma, 575 F.2d 872, 197 USPQ 852 (CCPA 1978); and Ex parte Bowman, 61 USPQ2d 1669 (Bd. Pat. App. & Int. 2001) (non-precedential). We have reviewed these three cases and do not find that they support the examiner's separate 'technological arts' test."

Page 8 of opinion of the Board of Patent Appeals and Interferences in Ex parte CARL A. LUNDGREN discusses the Supreme Courts opinion.

"Finally, we note that the Supreme Court was aware of a 'technological arts test,' and did not adopt it when it reversed the Court of Customs and Patent Appeals in Gottschalk v. Benson, 409 U.S. 63, 175 USPQ 673 (1972). As explained in Diamond v. Diehr, 450 U.S. 175, 201, 209 USPQ 1, 14 (1981)."

Finally on the top of page 9 of opinion of the Board of Patent Appeals and Interferences in Ex parte CARL A. LUNDGREN:

"Our determination is that there is currently no judicially recognized separate "technological arts" test to determine patent eligible subject matter under § 101. We decline to propose to create one. Therefore, it is apparent that the examiner's rejection can not be sustained."

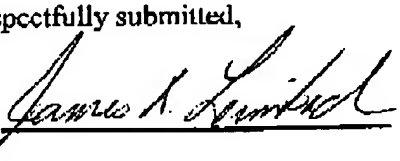
As demonstrated by the above discussion related to the Precedential Opinion of the Board of Patent Appeals and Interferences in Ex parte CARL A. LUNDGREN, this rejection is based on a flawed assumption that there exist a requirement based on "technological arts". Accordingly, this rejection is traversed.

The Applicants, respectfully, point out that the rejected claims produce change the creates a useful and tangible result. For example, in Claim 1 there is a selection history that is partitioned into clusters. A selection by the user of one of the clusters is followed by an updating of the user profile. Therefore, a new user profile is created that did not previously exist. Accordingly, the rejected claims are statutory under the conventional rules to determine if a claim is statutory.

Applicant is not aware of any additional patents, publications, or other information not previously submitted to the Patent and Trademark Office which would be required under 37 C.F.R. 1.99.

In view of the foregoing amendment and remarks, the Applicant believes that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,

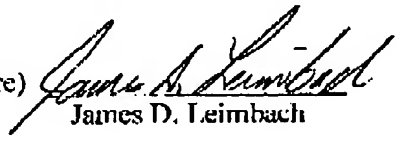
By 

James D. Leimbach
Patent Attorney Reg. No. 34,374

Please address all correspondence for this application to:
Michael E. Belk, Senior Intellectual Property Counsel
Philips Intellectual Property & Standards
Philips Electronics N.A. Corp.
P.O. Box 3001
Briarcliff Manor, NY 10510-8001 USA
(914) 333-9643,

CERTIFICATE OF TRANSMISSION
I hereby certify that this correspondence
is being transmitted on this date via
facsimile transmission to (571) 273-8300 AND addressed to:
Mail Stop: Amendment
COMMISSIONER OF PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Date of Transmission: December 12, 2005

(Signature) 
By: James D. Leimbach